

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Case No. 1:07-CV-953**

RYAN McFADYEN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	MOTION BY DNA SECURITY, INC.
)	AND RICHARD CLARK TO
DUKE UNIVERSITY, <i>et al.</i>)	DISMISS SECOND AMENDED
)	COMPLAINT
Defendants.)	
)	
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Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants DNA Security, Inc. and Richard Clark (“Defendants”) respectfully move the Court to dismiss the Second Amended Complaint against these Defendants for failure to state a claim upon which relief can be granted and because affirmative defenses bar the claims of the Plaintiffs.

In support thereof and pursuant to this Court’s February 16, 2010 Order [Docket No. 135], Defendants incorporate by reference their previously-filed Brief in Support of Motion to Dismiss [Docket No. 60], Reply Brief in Support of Motion to Dismiss [Docket No. 100], and Supplemental Brief in Support of Motion to Dismiss [Docket No. 121]. For those reasons, Defendants respectfully request that the claims against them be dismissed.

Respectfully submitted this, the 12th day of March, 2010.

/s/ Robert J. King III

Robert J. King III

N.C. State Bar No. 15946

rking@brookspierce.com

Kearns Davis

N.C. State Bar No. 22014

kdavis@brookspierce.com

Clinton R. Pinyan

N.C. State Bar No. 22260

cpinyan@brookspierce.com

Brooks, Pierce, McLendon, Humphrey and
Leonard, L.L.P.

Post Office Box 26000

Greensboro, North Carolina 27420

Telephone: (336) 373-8850

Facsimile: (336) 378-1001

*Counsel for Defendants DNA Security, Inc. and
Richard Clark*

Robert A. Sar

N.C. State Bar No. 22306

robert.sar@ogletreedeakins.com

Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.

2301 Sugar Bush Road, Suite 600

Raleigh, North Carolina 27612

Telephone: (919) 787-9700

Facsimile: (919) 783-9412

Counsel for Defendant DNA Security, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2010, I caused the foregoing **MOTION BY DNA SECURITY, INC. AND RICHARD CLARK TO DISMISS SECOND AMENDED COMPLAINT** to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Robert C. Ekstrand
Ekstrand & Ekstrand, LLP
811 Ninth Street, Ste. 260
Durham, NC 27705
Counsel for Plaintiffs Ryan McFadyen, Matthew Wilson, and Breck Archer

Jamie S. Gorelick
Paul R. Q. Wolfson
Jennifer M. O'Connor
Wilmer Cutler Pickering Hale and Dorr, LLP
1875 Pennsylvania Avenue, NW
Washington, D.C. 20006

and

William F. Lee
Wilmer Cutler Pickering Hale and Dorr, LLP
60 State Street
Boston, MA 02109

and

James Donald Cowan, Jr.
Dixie Thomas Wells
Ellis & Winters, LLP
333 N. Greene Street, Ste. 200
Greensboro, NC 27401
Counsel for Defendants Duke University, Duke University Police Department, Aaron Graves, Robert Dean, Leila Humphries, Phyllis Cooper, William F. Garber, II, James Schwab, Joseph Fleming, Jeffrey O. Best, Gary N. Smith, Greg Stotsenberg, Robert K. Steel, Richard H. Brodhead, Ph.D., Peter Lange, Ph.D., Tallman Trask, III, Ph.D., John Burness, Larry Moneta, Ed.D., Victor J. Dzau, M.D., Allison Halton, Kemel Dawkins, Suzanne Wasiolek, Stephen Bryan, and Matthew Drummond

Jamie S. Gorelick
Paul R. Q. Wolfson
Jennifer M. O'Connor
Wilmer Cutler Pickering Hale and Dorr, LLP
1875 Pennsylvania Avenue, NW
Washington, D.C. 20006

and

William F. Lee
Wilmer Cutler Pickering Hale and Dorr, LLP
60 State Street
Boston, MA 02109

and

Dan Johnson McLamb
Shirley M. Pruitt
Thomas Carlton Younger, III
Yates, McLamb & Weyher, LLP
P.O. Box 2889
Raleigh, NC 27602-2889
Counsel for Defendants Duke University Health Systems, Inc., Private Diagnostic Clinic, PLLC, Julie Manly, M.D., Theresa Arico, R.N., and Tara Levicy, R.N.

Reginald B. Gillespie, Jr.
Faison & Gillespie
P.O. Box 5517
Durham, NC 27717-1729
Counsel for Defendants City of Durham, North Carolina and Edward Sarvis

Patricia P. Kerner
D. Martin Warf
Hannah Gray Styron
Troutman Sanders, LLP
434 Fayetteville Street, Ste. 1900 (27601)
P.O. Box 1389
Raleigh, NC 27602
Counsel for Defendants Patrick Baker, Steven Chalmers, Ronald Hodge, Lee Russ, Stephen Mihaich, Beverly Council, Jeff Lamb, Michael Ripberger, and Laird Evans

James B. Maxwell
Maxwell, Freeman & Bowman, P.A.
P.O. Box 52396
Durham, NC 27717-2396
*Counsel for Defendants James T. Soukup, Kammie Michael, David W. Addison, and
Richard D. Clayton*

David W. Long
Edwin M. Speas, Jr.
Eric P. Stevens
Poyner Spruill, LLP
P.O. Box 1801
Raleigh, NC 27602-1801
Counsel for Defendant Mark D. Gottlieb

Joel M. Craig
Henry W. Sappenfield
Kennon Craver Belo Craig & McKee, PLLC
4011 University Drive, Ste. 300
P.O. Box 51579
Durham, NC 27717-1579
Counsel for Defendant Benjamin W. Himan

James A. Roberts, III
Paul R. Dickinson, Jr.
Lewis & Roberts, PLLC
1305 Navaho Dr., Ste. 400 (27609-7482)
P.O. Box 17529
Raleigh, NC 27619
Counsel for Defendant Brian Meehan, Ph.D.

Linwood Wilson
*Address redacted pursuant to Local Rule
Pro Se

Respectfully Submitted,

/s/ Robert J. King III